

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-3, 5, 6, 10-13, 35-37, 39-47 and 49 are pending in the application, with claims 1 and 39 being the independent claims. Claims 1, 10 and 44 are sought to be amended. Support for the claim amendments can be found throughout the specification and in the claims as originally presented. For example, support for the amendment to claim 1 can be found at page 25, lines 8-24; and support for the amendments to claims 10 and 44 can be found at page 1, lines 17-20. No new matter is added by way of these amendments. It is respectfully requested that the amendments be entered and considered.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***I. Objection to Specification***

The specification was objected to because the status of the U.S. applications listed on pages 14 and 20-21 is not indicated. (Office Action, page 2). The specification has been amended to include the status of the U.S. applications listed on pages 14 and 20-21. These amendments do not introduce any new matter into the disclosure. Although several of the applications have been designated as "abandoned," the disclosures of these applications are found in the indicated published international applications. Moreover continuing

applications have been filed from several of the abandoned applications and have issued as U.S. Patents. Thus, the disclosures of the cited applications are all publicly available. In view of the amendments to the specification, the objection to the specification has been fully accommodated and should be withdrawn.

***II. Claim Rejections Under 35 U.S.C. § 112, First Paragraph***

Claims 10-13 and 44-47 were rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. (Office Action, page 2). According to the Examiner, the specification is enabling for an *in vitro* method for screening a drug that is potentially useful for the treatment or prevention of Alzheimer's disease, but "does not reasonably provide enablement for using the claimed method for screening drugs that could be potentially useful for treating neuroectodermal tumors, malignant astrocytomas or glioblastomas." (Office Action, pages 2-3).

Applicants respectfully traverse this rejection. Nonetheless, solely to expedite allowance of the present application, claims 10 and 44 have been amended to recite "An *in vitro* method for screening a candidate drug that is potentially useful for the treatment or prevention of Alzheimer's disease, said method comprising . . ." In view of this amendment, the rejection under § 112, first paragraph, has been fully accommodated and should be withdrawn.

### ***III. Claim Rejections Under 35 U.S.C. § 102***

Claims 1-3, 5, 6, 35-37, 39-43 and 49 were rejected under 35 U.S.C. § 102(b) as being anticipated by WO94/23756. (Office Action, page 5). This rejection is based on the nucleotide sequence set forth in Figure 16R of WO94/23756, which, as noted at page 5, lines 12-14 of the present specification, comprises numerous errors relative to the corrected sequence presented in SEQ ID NO:1.

Applicants first submit that this rejection was incorrectly applied to claims 36, 39-43 and 49. Claim 36 depends from claim 1 and specifies that the DNA molecule codes for a protein having the amino acid sequence of SEQ ID NO:2. Likewise, claim 39 recites "A DNA construct, which comprises a DNA molecule that encodes the amino acid sequence set forth in SEQ ID NO:2 . . . ." The nucleotide sequence presented in Figure 16R of WO94/23756 does not encode the amino acid sequence of SEQ ID NO:2 of the present application. A copy of Figure 16R from WO94/23756 is submitted herewith as Exhibit A, marked up to show the codons that correspond to the coding sequence of SEQ ID NO:1. A careful comparison of the sequence of Figure 16R with SEQ ID NO:1 reveals that the nucleotide sequence of Figure 16R would, at best, encode only the first 45 amino acids of SEQ ID NO:2 of the present application. (An asterisk is shown in Exhibit A above the codon (nucleotides 146-148) that corresponds to amino acid 45 of SEQ ID NO:2). Following nucleotide 148 in the sequence of Figure 16R, the sequence contains several errors relative to SEQ ID NO:1. The sequence of Figure 16R, therefore, would not encode the amino acid sequence of SEQ ID NO:2 of the present application, which contains 375 amino acids.

In short, WO94/23756 does not disclose a nucleotide sequence that would encode the amino acid sequence of SEQ ID NO:2 of the present application. Therefore, WO94/23756 cannot and does not anticipate claim 36 or 39, or any of the claims that depend therefrom.

Applicants also submit that the rejection under 35 U.S.C. § 102(b) was incorrectly applied to claim 37. Claim 37 depends from claim 1 and specifies that the DNA molecule consists of the DNA molecule of SEQ ID NO:1. WO94/23756 does not disclose a DNA molecule having SEQ ID NO:1 of the present application. Therefore, WO94/23756 cannot and does not anticipate claim 37.

Finally, Applicants note that claim 1 has been amended to recite:

A DNA construct, which comprises the DNA molecule of SEQ ID NO:1 or a DNA molecule which is at least 90% homologous thereto, wherein said DNA molecule is under control of a heterologous neuro-specific promoter, wherein said DNA molecule which is at least 90% homologous to SEQ ID NO:1 comprises one or more nucleotides corresponding to nucleotides 150, 194-195, 240-241, 243, 244, 255-256, 266-267, 269-271, 276, 279-280, 293-295, 338-340, 411, 459, 532-533, 591, 633-644, 795-797, 828, 853-854, 876-877, 883, 884-885, 898, 976, 979-980, 999, 1037, 1043-1044, 1092-1096, 1099, or 1116-1119 of SEQ ID NO:1;

and wherein said DNA molecule codes for a protein that has an activity of AD7c-NTP when over-expressed in neuronal cells.

As noted above, WO94/23756 does not disclose a DNA molecule having SEQ ID NO:1 of the present application. The sequence set forth in Figure 16R of WO94/23756 contains several errors relative to SEQ ID NO:1 of the present application. In particular, as

indicated in the present specification at page 25, lines 8-24, numerous nucleotides in the region of nucleotides 150-1139 of SEQ ID NO:1 are not found in the sequence of Figure 16R of WO94/23756. Thus, WO94/23756 does not teach a DNA molecule which is at least 90% homologous to SEQ ID NO:1 and that comprises one or more nucleotides corresponding to nucleotides 150, 194-195, 240-241, 243, 244, 255-256, 266-267, 269-271, 276, 279-280, 293-295, 338-340, 411, 459, 532-533, 591, 633-644, 795-797, 828, 853-854, 876-877, 883, 884-885, 898, 976, 979-980, 999, 1037, 1043-1044, 1092-1096, 1099, or 1116-1119 of SEQ ID NO:1, as recited in currently presented claim 1. Accordingly, WO94/23756 cannot and does not anticipate currently presented claim 1 or any of the claims that depend therefrom.

In view of the foregoing discussion, Applicants respectfully request that the rejection under 35 U.S.C. § 102 be reconsidered and withdrawn.

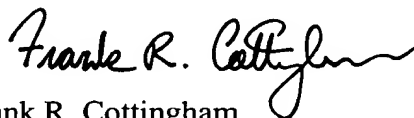
### ***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Frank R. Cottingham  
Attorney for Applicants  
Registration No. 50,437

Date: JAN. 04, 2006

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600